IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 4036 of 1999

Between:

Basheer Ahmed s/o late G. Hayath Saheb
r/o Qr No.118/1, RTC Quarters
Kacheguda Hyderabad.

..... PETITIONER

AND

1 The Vice Chairman & Managing Director,
APSRTC Musheerabad Hyderabad.

2 The Executive Director
Hyderabad Zone, APSRTC Imlibun Bus Station
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order direction or writ particularly one in the nature of writ of Mandamus declaring the proceedings No.P1/114(1) / 98-HZ dated 16-9-98 of the 2nd respondent as confirmed by the 1st respondent in proceedings No.P2/19/(20)/98-PO(IV) dated 21-12-1998 as illegal, arbitrary and without jurisdiction.

Counsel for the Petitioner:MR.G.VIDYASAGAR

Counsel for the Respondent No.: MR.V.T.M.PRASAD

The Court made the following :

ORDER

Heard Mr.G.Vidyasagar, learned counsel appearing on behalf of the petitioner and also Mr.V.T.M.Prasad, learned Standing counsel appearing on behalf of the respondents.

The petitioner herein, who has been working as Pay Master and Cashier with the respondents herein, filed this Writ Petition *inter alia* seeking a mandamus challenging the impugned proceedings, dated 16-09-1998, reverting him to the post of Pay Clerk and also orders confirming the same in appeal on 21-12-1998 by the 1st respondent as illegal.

The case of the petitioner in brief is that he was initially appointed on 22-11-1975 as Pay Clerk and thereafter he was promoted as Pay Master and Cashier in February, 1992. Subsequently after a long time on the ground that there has been shortage of an amount of Rs.2,570/-, charge sheet was issued on 05-10-1996 where upon, the petitioner has submitted a detailed explanation on 15-10-1996. Thereafter, the petitioner has made a deposit in the month of May, 1996 and therefore nothing can be made out against him warranting any such punishment. However, not accepting the explanation submitted by the petitioner, impugned proceedings have been passed on 16-09-1998 reverting the petitioner to the post of Pay Clerk and the appeal filed by him also dismissed.

Mr.G.Vidyasagar, learned counsel appearing on behalf of the petitioner submits that having regard to the fact that the petitioner has deposited the amount and even during the enquiry, no evidence has been let in to prove the allegation of misappropriation and therefore, the entire enquiry is one sided and no credence was given to the explanation given by the petitioner at any stage of the proceedings.

The learned Standing counsel appearing on the behalf of the

respondents sought to repel the aforesaid contentions.

Having considered the submissions made and on perusal of record, the only question which has to be considered is as to whether the petitioner's reversion to the post of Pay Clerk is justified?

There is no dispute of the fact that the petitioner has been appointed as Pay Clerk and subsequently he was promoted as Pay Master and Cashier. In the month of May, 1996 having noticed that there is shortage in the amount, the petitioner was informed about the same and a charge sheet was issued on 05-10-1996. The petitioner has deposited the amount in May, 1996 itself. However, it is pointed out that it is only in regard to voucher, he could possibly made the deposit and therefore, the allegation in regard to appropriation or misappropriation cannot be attributed. Taking into consideration the allegations made, the time gap, withholding the money and again depositing the same, it is curious to note that no explanation is coming on behalf of the petitioner at any stage of proceedings as to why the said amount was withheld and subsequently deposited the said amount in May, 1996. Though, of course, on behalf of the petitioner, it is submitted that the authorities themselves have stated that if the amount is deposited temporarily, no action will be taken. No proper explanation was given by the petitioner for withholding the said amount for a period of six or seven months. In the absence of such explanation, it cannot be said that the petitioner cannot be held to be responsible for with holding the amount and there may not be any misappropriation, however there being no such valid sanction to withhold the amount. In the circumstances and especially in the absence of proper reasons coming from the petitioner's side, I do not find any merit to interdict the same. Hence it has to be held that the petitioner was rightly reverted on such allegations and there are no merits in the writ petition.

Accordingly, the Writ Petition is dismissed. No costs.

29-03-2005.

Hsd

Asst. Registrar

To

1 The Vice Chairman & Managing Director,
APSRTC Musheerabad Hyderabad.

2 The Executive Director
Hyderabad Zone, APSRTC Imlibun Bus Station
Hyderabad.

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